

§ 387t. Labeling, recordkeeping, records inspection**(a) Origin labeling****(1) Requirement**

Beginning 1 year after June 22, 2009, the label, packaging, and shipping containers of tobacco products other than cigarettes for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement “sale only allowed in the United States”. Beginning 15 months after the issuance of the regulations required by section 1333(d) of title 15, as amended by section 201 of Family¹ Smoking Prevention and Tobacco Control Act, the label, packaging, and shipping containers of cigarettes for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement “Sale only allowed in the United States”.

(2) Effective date

The effective date specified in paragraph (1) shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with such paragraph.

(b) Regulations concerning recordkeeping for tracking and tracing**(1) In general**

The Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

(2) Inspection

In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products.

(3) Codes

The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

(4) Size of business

The Secretary shall take into account the size of a business in promulgating regulations under this section.

(5) Recordkeeping by retailers

The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

(c) Records inspection

If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or

smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products. The Secretary shall not authorize an officer or employee of the government of any of the several States to exercise authority under the preceding sentence on Indian country without the express written consent of the Indian tribe involved.

(d) Knowledge of illegal transaction**(1) Notification**

If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

(A) imported, exported, distributed, or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

(B) imported, exported, distributed, or diverted for possible illicit marketing,

the manufacturer or distributor shall promptly notify the Attorney General and the Secretary of the Treasury of such knowledge.

(2) Knowledge defined

For purposes of this subsection, the term “knowledge” as applied to a manufacturer or distributor means—

(A) the actual knowledge that the manufacturer or distributor had; or

(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

(e) Consultation

In carrying out this section, the Secretary shall consult with the Attorney General of the United States and the Secretary of the Treasury, as appropriate.

(June 25, 1938, ch. 675, §920, as added Pub. L. 111-31, div. A, title III, §301, June 22, 2009, 123 Stat. 1850.)

REFERENCES IN TEXT

Section 201 of the Family Smoking Prevention and Tobacco Control Act, referred to in subsec. (a)(1), is section 201 of div. A of Pub. L. 111-31.

§ 387u. Studies of progress and effectiveness**(a) FDA report**

Not later than 3 years after June 22, 2009, and not less than every 2 years thereafter, the Secretary of Health and Human Services shall submit to the Committee on Health, Education,

¹ So in original. Probably should be “the Family”.